

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 28<sup>th</sup> DAY OF FEBRUARY, 2008

BEFORE

THE HON'BLE MR. JUSTICE K.L.MANGUNATH

WRIT PETITION NO.18532 OF 2007 (GM-RES)

BETWEEN:

- 1 THE GRAIN MERCHANTS CO OPERATIVE BANK LTD  
NO.2, PAMPAMAHAKAVI ROAD  
CHAMARAJAPET  
BANGALORE - 560018.  
REP BY ITS INCHARGE SECRETARY  
... PETITIONER

(By Smt: MAMATA G KULKARNI, SPS ASSTS )

AND :

- 1 CHIEF COMMISSIONER  
KARNATAKA STATE INFORMATION  
COMMISSION, III FLOOR, III STAGE  
MULTISTOREYED BUILDING  
AMBEDKAR VEEDHI  
BANGALORE - 560002.
- 2 S NARESH KUMAR  
CHIEF EDITOR  
HUMAN RIGHTS SQUAD  
88, 80 FEET ROAD, R.K. EXTN  
PADMANABHANAGAR  
BANGALORE - 560070.  
... RESPONDENTS

(By Sri :B.VEERAPPA,AGA FOR R1;

R2 - S.NARESH KUMAR, PARTY IN PERSON )

THIS W.P. FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO - QUASH THE PROCEEDINGS ANNEXURE L ON THE FILE OF CHIEF COMMISSIONER KARNATAKA STATE INFORMATION COMMISSION, BANGALORE.

This Petition coming on for Orders this day, the Court made the following:

ORDER

The petitioner is a Co-operative Bank registered under the Karnataka Co-operative Societies Act 1959. On the complaint of the 2<sup>nd</sup> respondent, the 1<sup>st</sup> respondent has initiated proceedings under the provisions of the Right to Information Act 2005. Notice is issued by the 1<sup>st</sup> respondent to the petitioner-Bank calling upon the petitioner-Bank to appear before the 1<sup>st</sup> respondent at 11.30 on 28.11.2007 in order to enquire into the complaint lodged by the 2<sup>nd</sup> respondent. The copy of the notice is produced along with the Writ Petition as per Annexure-L.

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Annexure-L is called in question by the petitioner on the ground that the provisions of Right to Information Act 2005 does not authorize a person to collect the evidence in respect of pending suit. According to the petition averments, a suit is pending in O.S.3210/91 filed by the 2<sup>nd</sup> respondent and that the 2<sup>nd</sup> respondent had earlier approached different authorities of the State, namely the Karnataka Taxation Authority, Joint Registrar of Cooperative Societies and so also the Police authorities and contending that the nature of complaint lodged by the 2<sup>nd</sup> respondent against the petitioner does not come under the provisions of the Right to Information Act, the present petition is filed.

2. I have heard the learned counsel appearing for the parties.

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3. It is no doubt true, the petitioner has only received a notice from the Information Commissioner as per Annexure-L. In Annexure-L, Information Commissioner has also informed the petitioner how the case ~~would~~<sup>can be</sup> be contested by him as per the provisions of the Right to Information Act 2005.

4. If the petitioner is of the opinion that either the documents sought by the 2<sup>nd</sup> respondent before the 1<sup>st</sup> respondent from the petitioner cannot be furnished by the petitioner ~~and~~<sup>or</sup> that the Information Commissioner, cannot direct the petitioner to furnish such documents or if the petitioner is of the opinion that the provisions of the Act ~~are~~<sup>are</sup> not applicable to the petitioner-Bank based on the complaint lodged by the 2<sup>nd</sup> respondent, it is always open for the petitioner to file a detailed objections before the Information

Commissioner and if any such objections are filed, it is for the Information Commissioner to adjudicate the contentions urged by the petitioner.

5. This Court is of the opinion that Annexure-L is only a notice calling upon the petitioner to appear before the 1<sup>st</sup> respondent pursuant to the complaint lodge by the 2<sup>nd</sup> respondent. Therefore it is premature for this Court to quash the Notice issued by the respondent-1.

6. In the circumstances, the Writ Petition is disposed of granting permission for the petitioner to file objections, if any already filed or if the petitioner has already filed objections raising any other contentions which are open to the petitioner under the law and if such contentions are raised by the petitioner it is for the 1<sup>st</sup> respondent -

Commissioner to consider the same and decide  
the case of the parties on merits and in  
accordance with law.

Sd/-  
Judge

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